

# COVID-19 RELATED REGULATIONS AND DIRECTIVES AFFECTING AGRICULTURE AND THE SUPPLY CHAIN.



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Ons ontwikkel die Suid-Afrikaanse Landbou Industrie.

## **Table of contents:**

<b>Introduction .....</b>	<b>4</b>
<b>1. Disaster Management Act, 2002: Regulations issued in terms of Section 27(2) of the Act Government Gazette no.: 43107 issued on 18 March 2020 –.....</b>	<b>5</b>
<b>2. Competition Act (89/1998): Consumer and Customer Protection and National Disaster Management Regulations and Directions. Government Gazette no.: 43116 issued on 19 March 2020 –.....</b>	<b>5</b>
<b>3. Disaster Management Act (57/2002): Regulations made in terms of Section 27(2) by the Minister of Cooperative Governance and Traditional Affairs – Government Gazette no.: 43148 issued on 25 March 2020 – .....</b>	<b>5</b>
<b>4. Disaster Management Act (57/2002): Directions made in terms of Section 27(2) by the Minister of Cooperative Governance and Traditional Affairs. Government Gazette no.: 43147 issued on 25 March 2020 – .....</b>	<b>6</b>
<b>5. Disaster Management Act (57/2002): Regulations 10 (7) of the Directions made under sections 27 (2) of the Disaster Management Act. Government Gazette no.: 43163 issued on 26 March 2020 (Department of Transport) – .....</b>	<b>6</b>
<b>6. Disaster Management Act (57/2002): Amendment of Regulations issued in terms of Section 27(2). Government Gazette no.: 43168 issued on 26 March 2020 –.....</b>	<b>7</b>
<b>7. Disaster Management Act (57/2002): Measures to address, prevent and combat the Spread of COVID-19 in the Air Services. Government Gazette no.: 43160 issued on 26 March 2020 – .....</b>	<b>7</b>
<b>8. Disaster Management Act (57/2002): Directive by the Minister of Employment and Labour in terms of regulation 10 (8) issued by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27 (2) of the Act. Government Gazette no.: 43161 issued on 26 March 2020 – .....</b>	<b>8</b>
<b>9. Disaster Management Act (57/2002): Measures to prevent and combat the Spread of COVID-19 in the public transport services. Government Gazette no.: 43157 issued on 26 March 2020 – .....</b>	<b>9</b>

- 10.** Disaster Management Act (57/2002): Amendment of Directives on Aviation Transport (Disaster Management Act, 2002). Government Gazette no.: 43176 issued on 27 March 2020 – ..... **10**
- 11.** International Trade Administration Act (71/2002): COVID-19 Export Control Regulation. Government Gazette no.: 43177 issued on 27 March 2020 – ..... **10**
- 12.** Amendment of the Directions issued in terms of Regulation 10(7) of the Regulations made in under Section 27(2) of the Disaster Management Act, 2002 (Act No. 57 Of 2002): Measures to Prevent And Combat the Spread of Covid -19 in the Public Transport Services. Government Gazette No.: 43183 Issued on 30 March 2020 –..... **11**
- 13.** Disaster Management Act (57/2002): Amendment of the Directions issued in terms of Regulations 10 (7) of the Regulations made in under Section 27 (2) of the Act: Measures to prevent and Combat the Spread of COVID-19 in the Public Transport Services. Government Gazette No.: 43186 Issued on 31 March 2020 –..... **12**
- 14.** Disaster Management Act (57/2002): Directions issued by the Minister of Forestry, Fisheries and the Environment in terms of Regulation 10 (8) of the Regulations issued in terms of section 27 (2) of the Act: Measures to address, prevent and Combat the Spread of COVID-19. Government Gazette No.: 43190 Issued on 31 March 2020 –..... **12**
- 15.** Disaster Management Act, 2002: Amendment of Regulations Issued in terms of Section 27(2). Government Gazette No.: 43199 Issued on 2 April 2020 –..... **13**

## Introduction

On 15 March 2020 President Cyril Ramaphosa addressed the nation and declared the outbreak of the Covid-19 as a national state of disaster in terms of section 27(2) of the Disaster Management Act 57 of 2020. This came after the World Health Organisation confirmed the outbreak of the virus as a global pandemic. A range of regulations and directives has since been put in place which included restricted international travel, prohibited gatherings of more than 100 people, the closure of schools and other educational institutions and restrictions in the sale of alcohol after 18:00.

After the implementation of these regulations, the global crisis deepened whereafter President Cyril Ramaphosa addressed the nation on the 23<sup>rd</sup> of March 2020 and declared a nation-wide lockdown after consultation with the National Coronavirus Command Council. This lockdown commenced on the 26<sup>th</sup> of March at 23:59 and will end on midnight 16 April 2020 to effectively curb the spread of the virus. Since the announcement of the lockdown regulations has since been published by various ministerial departments to take the necessary steps to prevent an escalation of the disaster. The common objective of these regulations is to alleviate, contain and minimise the effects of the outbreak of Covid-19 within the Republic of South Africa.

The President declared that the categories of people who will be exempted from this lockdown are those involved in the production, distribution, supply of food and basic goods as well as the transportation thereof. The value chain relating to agriculture will not be affected by the 21-day lockdown however, regulations have been introduced to regulate this sector from the supplier to the consumer. It is therefore critical that food security is not affected during this lockdown period.

A list of regulations and directives published by various ministerial departments relating to agriculture will follow with a brief description of each:

1. **Disaster Management Act, 2002: Regulations issued in terms of Section 27(2) of the Act Government Gazette no.: 43107 issued on 18 March 2020 –**
  - Declaration of a national state of disaster by Dr. Nkosazana Dlamini Zuma, the Minister of Cooperative Governance and Traditional Affairs
  - Release of national resources to ensure the delivery of essential services (section 2(1)(a) & (b)).
  - Authority to issue directives by various ministerial departments (section 10)
  
2. **Competition Act (89/1998): Consumer and Customer Protection and National Disaster Management Regulations and Directions. Government Gazette no.: 43116 issued on 19 March 2020 –**
  - Purpose of this regulation is to protect consumers from unconscionable, unfair, unreasonable, unjust or improper commercial practices (section 3.2)
  - Prevent excessive pricing of basic food or consumer items (section 4 and listed items in Annexure B)
  
3. **Disaster Management Act (57/2002): Regulations made in terms of Section 27(2) by the Minister of Cooperative Governance and Traditional Affairs – Government Gazette no.: 43148 issued on 25 March 2020 –**
  - Definition of essential goods and services as listed in Annexure B (section 11A) excepted from the lockdown.
  - **FOOD:** Any food product, including non-alcoholic beverages (A(1)(i))
    - Chemicals, packaging and ancillary products used in the production of any food product (A(1)(iii))
  - **SERVICES:** Production in the sale of goods
    - Grocery stores and spaza shops
    - Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment
    - Transport services of persons rendering essential services and goods;
    - Transport and logistics in respect of essential services to neighbouring countries

- Restriction of the movement of persons and goods are excepted when performing an essential service (section 11B(1)(a)(i))
  - Movement between provinces and metropolitan and district municipalities are prohibited (section 11B(1)(a)(iii) + (iv))
  - Business or entity who is in manufacturing, supply or provision of an essential good or service is exempted from the lockdown (section 11B(1)(b))
  - Retail stores are only allowed to sell essential goods (section 11B(1)(c))
  - Persons performing essential services must be duly designated by in writing which corresponds with Form 1 in Annexure C (section 11B(3))
  - All borders of the Republic are closed except for transportation of fuel and essential goods (section 11B(6)(a))
  - All commuter transport services (passenger rail, bus- taxi- and e-hailing services, maritime and air transport services is prohibited except where an essential service is rendered, obtaining essential goods provided that the carrying capacity does not exceed 50% licensed capacity (section 11C(1))
  - Where a person rendering an essential service is unable to travel to and from work the employer must make the necessary transport arrangements. Provided that the vehicle does not exceed 50% of its carrying capacity and hygienic measures are adhered to (section 11C(2))
4. Disaster Management Act (57/2002): Directions made in terms of Section 27(2) by the Minister of Cooperative Governance and Traditional Affairs. Government Gazette no.: 43147 issued on 25 March 2020 –
- Municipalities are directed to immediately close all public spaces and facilities that do not provide essential services – all markets including street vendors must be closed, other than food markets (section 6.5.2 (a)(vi))
5. Disaster Management Act (57/2002): Regulations 10 (7) of the Directions made under sections 27 (2) of the Disaster Management Act. Government Gazette no.: 43163 issued on 26 March 2020 (Department of Transport) –
- The loading and off-loading of cargo in and out of commercial ports are permitted (section 5(4)) - all 9 commercial ports

6. Disaster Management Act (57/2002): Amendment of Regulations issued in terms of Section 27(2). Government Gazette no.: 43168 issued on 26 March 2020 –

- During the lockdown, all businesses and other entities shall cease operations, except for any business or entity involved in the manufacturing, supply, or provision of an essential good or service, save where operations are provided from outside of the Republic or can be provided remotely by a person from their normal place of residence (section 11B(1)(b))
- All commuter transport services including passenger rail services, bus services, taxi services, e- hailing services, maritime and air passenger transport are prohibited, except bus services, taxi services, e- hailing services and private motor vehicles for purposes of rendering essential services, obtaining essential goods: Provided that-
  - (a) bus services, taxi services and e- hailing services shall not carry more than 50% of the licensed capacity; and
  - (b) private vehicles shall not carry more than 60% of the licensed capacity, and that all directions in respect of hygienic conditions and the limitation of exposure of persons to COVID-19, are adhered to (section 11C(1)(a) + (b))
- Harvesting and storage activities essential to prevent the wastage of primary agricultural goods (Annexure B to regulations no. 31)

7. Disaster Management Act (57/2002): Measures to address, prevent and combat the Spread of COVID-19 in the Air Services. Government Gazette no.: 43160 issued on 26 March 2020 –

- Purpose of these directions is to provide for conditions for air cargo entering the country (section 3(b))
- The following International Airports Designated as Ports of Entry to handle the air cargo:
  - (a) O.R Tambo;
  - (b) King Shaka;
  - (c) Upington;
  - (d) Polokwane;
  - (e) Bram Fischer;
  - (f) Kruger Mpumalanga;
  - (g) Pilanesberg; and
  - (h) Port Elizabeth. (section 6(1))
- The loading and off-loading of air cargo in and out of International Airports Designated as Ports of Entry are permitted (section 6(3)(1))

8. Disaster Management Act (57/2002): Directive by the Minister of Employment and Labour in terms of regulation 10 (8) issued by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27 (2) of the Act. Government Gazette no.: 43161 issued on 26 March 2020 –

- During this period of lockdown, companies will have to shut down and employees laid off temporarily. This means that employees are compelled to take leave, which is not out of choice. We therefore anticipate that employees may lose income. Employers are encouraged to continue to pay employees, but where this is not economically possible; we have created a special benefit under the Unemployment Insurance Fund as per the Directive Covid -19 Temporary Employee / Employer Relief Scheme.(Preamble of Regulation)
- The purpose of this directive is:
  - Payment of benefits to the Contributors who have lost income due to Covid -19 pandemic;
  - Minimise economic impact of loss of employment because of the Covid -19 pandemic;
  - Establish the Temporary Employee / Employer Relief Scheme and set out the application process for benefits of the Covid -19 pandemic and to alleviate economic impact of Covid -19 (section 2.1.1(a), (b) + (d);
  - Covid -19 Employee I Employer Temporary Relief Scheme (C19-TERS) requirements:
- Should an employer as a direct result of Covid -19 pandemic close its operations for a 3 (three) months or lesser period and suffer financial distress, the company shall qualify for a Covid-19 Temporary Relief Benefit.
- The benefit shall be de- linked from the UIF's normal benefits and therefore the normal rule that for every 4 (four) days worked, the employee accumulates a one day credit and the maximum credit days payable is 365 for every 4 (four) years will not apply.
- The benefits will only pay for the cost of salary for the employees during the temporary closure of the business operations.
- The salary benefits will be capped to a maximum amount of R17 712, 00 per month, per employee and an employee will be paid in terms of the income replacement rate sliding scale (38 % -60 %) as provided in the UI Act.
- Should an employee's income determined in terms of the income replacement sliding scale fall below the minimum wage of the sector concerned, the employee will be paid a replacement income equal to minimum wage of the sector concerned.



- Qualifying employees will receive a benefit calculated in terms of sections 12 and 13 of the UI Act, provided that an employee shall receive a benefit of no less than sector specific minimum wage.
- For the company to qualify for the temporary financial relief scheme, it must satisfy the following requirements -
  - The company must be registered with the UIF;
  - The company must comply with the application procedure for the financial relief scheme; and
  - The company's closure must be directly linked to the Covid -19 pandemic. (See section 3)
- Where an employee is in quarantine for 14 days due to Covid-19 pandemic, the employee shall qualify for illness benefit – see further requirements as per section 4
- Application procedure for these benefits are stipulated in section 5 of the regulation.

## 9. Disaster Management Act (57/2002): Measures to prevent and combat the Spread of COVID-19 in the public transport services. Government Gazette no.: 43157 issued on 26 March 2020 –

- All owners of public transport facilities must on regular intervals provide adequate sanitizers or other hygiene dispenser for washing of hands and disinfection equipment for users of public transport services for the duration of the directions. (section 4)
- Embarkation of public transport passengers in the public transport vehicles must do the following:
  - All operators must ensure that public transport vehicles are sanitized before picking up and after dropping off passengers.
  - Operators must ensure that all public transport vehicles door and window handles, arm-rest and hand rails are sanitized before picking up and dropping off passengers.
  - Operators must ensure that all public transport vehicles are clean and tidy.
  - All public transport operators must provide disinfection information materials and procedures.
  - All drivers must wear a mask
  - Any marshal who interacts with members of the public in public transport facility should wear a mask.
  - The sanitisers used to sanitise all public transport vehicles must have a minimum of 60% alcohol content (section 5)

- Transportation of passengers by buses is prohibited except when the bus is used for purposes of ferrying passengers rendering essential services (section 6)(2))
- Public transport that shall be permitted to ferry essential services workers will operate from 5H00 to 9H00 and again from 16H00 to 20H00 (section 6(3))
- Loading capacity of public transport during lockdown:
- A vehicle licensed to carry up to 4 passengers is only be permitted to carry 1 passenger.
- A Minibus licensed to carry up to 8 passengers is only be permitted to carry a maximum of 3 passengers.
- All Minibuses must reduce seating capacity by 50% of its seating capacity to mitigate the spread of the virus.
- All public transport operators should put measures in place to adhere to social distancing to curb the spread of the virus (section 8)

10. **Disaster Management Act (57/2002): Amendment of Directives on Aviation Transport (Disaster Management Act, 2002). Government Gazette no.: 43176 issued on 27 March 2020 –**

- The following International Airports Designated as Ports of Entry have Port Health capability and are ready to handle air cargo and services:
  - (a) O.R Tambo;
  - (b) King Shaka;
  - (c) Upington;
  - (d) Polokwane;
  - (e) Bram Fischer;
  - (f) Kruger Mpumalanga;
  - (g) Pilanesberg;
  - (h) Port Elizabeth; and
  - (i) Cape Town. (section 6 (1))

11. **International Trade Administration Act (71/2002): COVID-19 Export Control Regulation. Government Gazette no.: 43177 issued on 27 March 2020 –**

- "(a) goods described in Schedules 1, 2, 3 and 4 shall not be exported from the Republic of South Africa except by virtue of an export permit issued in

terms of Section 6 of the said International Trade Administration Act, 2002, and in which export permit such goods are specifically described;"

- "The code "DTIC" in column 2 of Schedule 4 indicates that the Department of Trade, Industry and Competition as well as any other department (the Line Department) as determined by the Minister of Trade, Industry and Competition must be consulted by the International Trade Administration Commission (ITAC) upon receipt of an application and the DTIC and /or the Line Department must provide a recommendation to ITAC before a determination on an application for an export permit can be considered by ITAC. If no recommendation is received from the DTIC and /or the Line Department within a period of ten (10) working days, or such an extended time period as requested, from the date of the request, it will be deemed that a recommendation will have been made that there is no objection to the issuing of an export permit."

## 12. Amendment of the Directions issued in terms of Regulation 10(7) of the Regulations made in under Section 27(2) of the Disaster Management Act, 2002 (Act No. 57 Of 2002): Measures to Prevent And Combat the Spread of Covid -19 in the Public Transport Services. Government Gazette No.: 43183 Issued on 30 March 2020 –

- During the lock-down, the validity period for learner's licence, driving licence, motor vehicle licence disk, temporary permit, professional driving permit and road worthy certificates shall be deemed to be valid and shall be extended for a further grace period of 30 days from the date of expiry of a lock -down period, unless determined otherwise by the Minister.
- This The validity period for the renewal of a motor trade number licence during the lock -down, shall be deemed to be valid and shall be extended for a further grace period of 6 months from the date of expiry of a lock-down period, unless determined otherwise by the Minister.
- Driving licence testing centres and vehicle testing stations will remain closed during lock -down period.
- For the purpose of these directions the following services are declared as essential services:
  - a) Tollgate operators
  - b) Road emergency operators
  - c) Employees responsible for safe operation of the roads
  - d) Rail logistic operators

13. Disaster Management Act (57/2002): Amendment of the Directions issued in terms of Regulations 10 (7) of the Regulations made in under Section 27 (2) of the Act: Measures to prevent and Combat the Spread of COVID-19 in the Public Transport Services. Government Gazette No.: 43186 Issued on 31 March 2020 –

- Public Transport permitted to ferry essential services workers will operate from 05h00 to 10h00 and from 16h00 to 20h00 (regulations explain further).
- During the lockdown period and unless determined by the Minister of Transport, private institutions or companies may make arrangements for the transportation of their workers who are rendering essentials services as listed in Annexure B in line with the operating shifts, work time schedules as determined by the responsible head of operations, Manager, Head of the Department or a person with responsible authority within such institution; and
- The operating shifts or work schedules or time table should be stamped and signed by such person with authority as contemplated in direction 6(6) (a).
- Public Transport vehicles must reduce their maximum licensed passenger seating capacity by 70% with no masks (regulations explain scenarios)
- During the lockdown period, all Minibus and Midibus taxi vehicles are permitted to load their maximum 100% passenger loading capacity as provided in the operating license on condition that all passengers are wearing masks.
- Public transport operators must put measures in place to adhere to social distancing to curb the spread of the virus.

14. Disaster Management Act (57/2002): Directions issued by the Minister of Forestry, Fisheries and the Environment in terms of Regulation 10 (8) of the Regulations issued in terms of section 27 (2) of the Act: Measures to address, prevent and Combat the Spread of COVID-19. Government Gazette No.: 43190 Issued on 31 March 2020 –

- Directions relating to licences and environmental authorisations as contemplated in the National Environmental Management Act, 1998 , the

National Environmental Management: Waste Act, 2008 and the National Environmental Management: Air Quality Act, 2004:

- The following timeframes are hereby extended, or deemed to be extended, by the number of days of the duration of the lockdown period of the national state of disaster declared for the COVID-19 pandemic, including any extensions to such duration, with effect from 27 March 2020 until the termination of the lockdown period.
- Authorities responsible for the processing of applications or appeals contemplated in paragraph (a), will not receive or process such applications or appeals from 27 March 2020 until the termination of the lockdown period of the national state of disaster.

## 15. Disaster Management Act, 2002: Amendment of Regulations issued in terms of section 27(2). Government Gazette No.: 43199 Issued on 2 April 2020 –

- For the period of lockdown—
  - (i) every person is confined to his or her place of residence, unless strictly for the purpose of performing an essential service, obtaining an essential good or service;
  - (ii) movement between provinces and between metropolitan and district areas is prohibited except—
    - (aa) for essential workers who have to travel to and from work;
    - (bb) transportation of cargo from ports of entry to their intended destination, on condition that necessary precautions have been taken to sanitise and disinfect such cargo;
- "(6)(a) All borders of the Republic are closed during the period of lockdown, except for ports of entry designated by the responsible Cabinet member for the transportation of fuel, cargo and goods during the period of lockdown.
- (6)(c) The Cabinet member responsible for transport may issue directions with regard to sea cargo operations and air freight operations.
- All commuter transport services including passenger rail services, bus services, taxi services, e-hailing services, maritime and air passenger transport are prohibited, except bus services, taxi services, e-hailing services and private motor vehicles necessary for purposes of rendering essential services, obtaining essential goods or services, seeking medical attention, funeral services and for collecting payment of grants and pensions: Provided that—
  - (a) bus services and e-hailing services shall not carry more than 50% of the licensed capacity;
  - (b) taxi services shall not carry more than 70% of the licensed capacity; and

(c) private vehicles shall not carry more than 60% of the licensed capacity, and that all directions in respect of hygienic conditions and the limitation of exposure of persons to COVID-19, are adhered to.

- (3) The Cabinet member responsible for transport must issue directions for the transportation of persons who must obtain essential goods or services where such person has no other means of transport except public transport, as contemplated in sub regulation (1).”
- Grocery stores and wholesale produce markets, including spaza shops and informal food traders, with written permission from a municipal authority to operate being required in respect of informal food traders;
- Air-traffic Navigation, Civil Aviation Authority, air charters, Cargo Shipping and dockyard services;”;
- Transport and logistics in respect of cargo and goods as set out in Part A to neighbouring countries;”.
- "FORM 2 - PERMIT TO TRAVEL TO ANOTHER METROPOLITAN AREA, DISTRICT OR PROVINCE Regulation 11B(8)(d)  
(To be completed by the Magistrate who is the Head of Office or a station commander of a police station or a person designated by him or her.)

**DISCLAIMER:** This is a living document which will be updated from time to time as new regulations and directives are published.

Complied by:



**Andrea Campher – Disaster Risk Manager**

**Email: [andrea@agrisa.co.za](mailto:andrea@agrisa.co.za)**

**(C) 079 8872 174**

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